



**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Docket No. FAA-2018-1074; Airspace Docket No. 18-AWP-29]**

**RIN 2120-AA66**

**Proposed modification of Class E Airspace, Hawaiian Islands, HI**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify the Hawaiian Islands Class E domestic airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth by removing that portion that extends beyond the Territorial Sea. This action would support the operation of Instrument Flight Rules (IFR) under standard instrument approach and departure procedures in the Hawaiian Islands, for the safety and management of aircraft within the National Airspace System.

**DATES:** Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, 20590; telephone: 1-800-647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2018-1074; Airspace Docket No. 18-AWP-29, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S. 216th St, Des Moines, WA, 98198-6547; telephone (206) 231-2245.

**SUPPLEMENTARY INFORMATION:**

**Authority for this Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class E airspace extending upward from 1200 feet above the surface for the

Hawaiian Islands, HI, to support IFR operations in standard instrument approach and departure procedures at this airport.

### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2018-1074/Airspace Docket No. 18-AWP-29". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### **Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed

through the FAA's web page at

[http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the "ADDRESSES" section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th St, Des Moines, WA, 98198-6547.

### **Availability and Summary of Documents for Incorporation by Reference**

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### **The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Hawaiian Islands, HI, Class E5 domestic airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth. The FAA identified that the Hawaiian Islands Class E airspace was established, in error, beyond the United States Territorial Sea and into international airspace. The Territorial Sea of the United States was defined by Presidential Proclamation number 5928, on December 27, 1988, as that area extending to 12 nautical miles beyond the land territory and internal waters of the United

States and the airspace above it. This action would modify the Class E Airspace extending upward from 1,200 feet above the surface of the earth by modifying the airspace's outer boundary to coincide with the Hawaiian Islands' Territorial Sea and remove the Class E airspace that extends upward from 5,500 feet above the surface of the earth. This action removes references to the Hilo and South Kauai VORTACs in the legal description for the Class E airspace extending upward from 1,200 feet. The airspace is being redesigned without the use of these references. This legal description considers the Hawaiian Islands as an archipelagic whole consistent with the definition established in the Constitution of the State of Hawaii. This designation includes all islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters. This action is being submitted coincidental with an FAA proposal, submitted on 04/11/18, NPRM FAA-2017-1013, 83 FR 15521, to establish Hawaiian Islands' High and Low Offshore Airspace Areas within international airspace. The Offshore Airspace would extend from the Hawaiian Islands' Territorial Sea outward to the boundary of the Flight Information Region. The proposal for offshore airspace will provide for the application of domestic air traffic control procedures, beyond the Territorial Sea, within areas of domestic radio navigational signal or Air Traffic Control radar coverage.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated

by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### **Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, and is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### **Environmental Review**

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### **List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

### **The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### **PART 71 - DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR**

## **TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

### **§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

\* \* \* \* \*

### **AWP HI E5 Hawaiian Islands, HI [Amended]**

That airspace extending upward from 1,200 feet above the surface within 12 NM of the Hawaiian Islands shoreline Beginning at lat. 22° 06' 28" N., long. 159° 04' 39" W., to lat. 21° 46' 57" N., long. 158° 14' 41" W., to 12 NM from the shoreline of Oahu. Thence, clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii, to lat. 20° 30' 29" N., long. 155° 53' 40" W., to lat. 20° 28' 08" N., long. 155° 52' 03" W., to 12 NM from the shoreline of Hawaii. Thence, clockwise along the line 12 NM from and parallel to the shoreline of Hawaii to lat. 20° 03' 26" N., long. 156° 05' 30" W., to lat. 20° 22' 48" N., long. 156° 18' 51" W., to 12 NM from the shoreline of Maui. Thence clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii, to lat. 21° 25' 19" N., long. 158° 26' 08" W., to lat. 21° 44' 34" N long. 159° 15' 27" W., to 12 NM from the shoreline of Kauai. Thence, clockwise along the line 12 NM from and parallel to the shoreline of the State of Hawaii to the beginning.

**Issued in Seattle, Washington, on February 20, 2019.**

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[FR Doc. 2019-03835 Filed: 3/4/2019 8:45 am; Publication Date: 3/5/2019]